

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

ANDREW MILLER,

Petitioner,

v.

Civil Action No. 2:15-01581

JIM RUBENSTEIN, Commissioner,  
DAVID BALLARD, Warden,  
MARGARET CLIFFORD, Lt., and  
JOHN DOE, Officer, each in  
their individual and official  
capacities,

Defendants.

MEMORANDUM OPINION AND ORDER

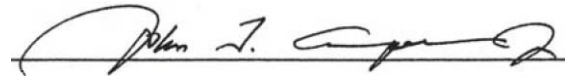
The court having received the proposed findings and recommendation of the United States Magistrate Judge filed on February 17, 2016, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B); and having reviewed the record in this proceeding; and there being no objections filed by either party to the proposed findings and recommendation; and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the proposed findings and recommendation of the magistrate judge be, and they hereby are, adopted by the court.

The court, accordingly, ORDERS that the defendants' Motion to Dismiss be, and it hereby is, granted with regard to

all of the plaintiff's claims against defendants Ballard and Rubenstein, with regard to the plaintiff's claims for monetary relief against defendants Clifford and Doe in their official capacities, and with regard to the plaintiff's claims for preliminary injunctive relief contained in the complaint, but otherwise denied. It is further ORDERED that the defendants' alternative Motion for Summary Judgment be, and it hereby is, denied as premature.

The Clerk is directed to forward copies of this order to the movant, all counsel of record, and the magistrate judge.

DATED: March 10, 2016

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", written over a horizontal line.

John T. Copenhaver, Jr.  
United States District Judge